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Palo Alto, California
Tel 650 326-2400

Seattle, Washington
Tel 206 467-9800

Walnut Creek, California
Tel 925 472-5000

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

FACSIMILE COVER SHEET

Date: March 21, 2002	Client & Matter Number : 014939-001600US	No. Pages (including this one): 6
To: John Gillon, Esq.	At Fax Number: 1-703-308-6916	Confirmation Phone Number: 1-703-305-9199
From : Jo Ann Dallara for Kenneth A. Weber		(4514)

Message:

RE: Species Specific Identification of Spore-Producing Microbes Using the Gene Sequence of Small Acid Soluble Spore Coat Proteins for Amplification Based Diagnostics
Appln. No. 10/067,613, Filed: February 4, 2002
Our File No.: 014939-001600US

Dear Mr. Dillon:

As per your telephone request, being transmitted herewith are letters dated 12/20/01 to inventors McKinney and Hunter-Cevera relating to the above application.

Very truly yours,



Jo Ann Dallara, Secretary to
Kenneth A. Weber

SF 1329147 v1

Original Will:	BE SENT BY MAIL	BE SENT BY FEDEX/OVERNIGHT COURIER	BE SENT BY MESSENGER	<input checked="" type="checkbox"/> NOT BE SENT
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Faxed:

Return to: Jo Ann H. Dallara - (4515)

If you have problems with reception please call Fax Services at extension **4659 47971**

Important

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SF 1329147 v1

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December 20, 2001

VIA FEDEX

Nancy McKinney
Clonetech
1020 East Meadow Circle
Palo Alto, CA 94303-4230

Re: Species Specific Identification of Spore-Producing Microbes Using the Gene
Sequence of Small Acid-Soluble Spore Coat Proteins For Amplification Based
Diagnostics
Our Reference No: 014939-001600US

Dear Ms. McKinney:

Enclosed is a copy of the patent application we propose to file with the PTO two weeks from the date of this letter. This patent has broad claims to the *Bacillus anthracis* SasB gene with its diagnostic signature sequence and to generic methods of detecting the bacteria using the signature sequence.

The original application has been revised to the current format used in our office. We did not want to introduce any new matter into the application. The only substantive change from the provisional application is that the broadest claims are now limited to the percent homology represented in the table aligning the SasB genes of *B. anthracis* and *B. cereus*. For your convenience, we have included a copy of the original claims.

If you notice any errors or other things that you want to change in the specification, be assured that we will address these concerns later, for now, we would like you to confirm that the application claims work to which you contributed.

I have spoken with each of the named co-inventors. We discussed your individual contributions and while specific recollections differ, all agreed that the group began the research with the same goal and no one predicted *a priori* that any specific spore protein would be the protein having the diagnostic signature that SasB was determined to have. As we discussed this was a "discovery" invention because no one could have conceived of it prior to its empirical determination.

For a discovery invention by a team of research scientists, the patent law permits the inventive entity to include all the members who are creatively contributing to the discovery. To

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Nancy McKinney
December 20, 2001
Page 2

hold otherwise would lead to the exclusion of principle investigators who may not have been in town when the discovery was made or to the exclusion of less lucky members who might have volunteered to work in areas where the discovery was not found. The inventive entity does not extend to persons who are acting merely as your hands. And yes, it is not a black and white issue. There is a gray area to inventorship determinations. The strict application of law merely requires that we do not *deceptively* act to improperly leave or add people.

This being said, no one disputed that the five named co-inventors did not work as a cooperative team to identify a signature sequence for detection of *B. anthracis*. And, even though it was clear that you and Stan Goldman were the most active participants in the physical discovery, all members of the team are entitled under the law to be named as co-inventors.

Included with the application is a declaration to for you to sign. You need to review the application data sheet, application (particularly the claims) and then sign the declaration that provides that you are a co-inventor. You don't need to agree that the others are co-inventors. Then, please return the declaration as soon as possible in the enclosed self-addressed Federal Express envelope.

If you do not return the declaration, we will file the application and list you as a co-inventor. If you refuse to co-operate, please let me know in a letter. Your cooperation is appreciated because applications without completely executed declarations require that the patent application be sent to the petition branch of the USPTO for review. And while it is supposed to be a ministerial task, any deviation from the normal processing at the USPTO can translate into unnecessary delay and additional costs.

I enjoyed speaking with you and will gladly answer any questions you might have concerning the application.

Very truly yours,



Kenneth Weber
Partner

Enclosures: Application
Original Claims
Application Data Sheet
Declaration

cc: David Aston (w/encl.)
SF 1302266 v1

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Palo Alto, California
Tel 650 326-2400

Denver, Colorado
Tel 303 571-4000

Walnut Creek, California
Tel 925 472-5000

Seattle, Washington
Tel 206 467-9600

San Francisco

Two Embarcadero Center
8th Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

December 20, 2001

VIA FEDEX

Jennifer C. Hunter-Cevera, Ph.D.
University of Maryland
Biotechnology Institute
15825 Shady Grove Road, Suite 55
Rockville, MD 20852

Re: Species Specific Identification of Spore-Producing Microbes Using the Gene
Sequence of Small Acid-Soluble Spore Coat Proteins For Amplification Based
Diagnostics
Our Reference No: 014939-001600US

Dear Dr. Hunter-Cevera:

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Jennifer C. Hunter-Cevera
December 20, 2001
Page 2

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Kenneth Weber
Partner

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HP

Jennifer C. Hunter-Cevera
December 20, 2001
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Enclosures: Application
Original Claims
Application Data Sheet
Declaration

cc: David Aston (w/encl.)
SF 1302250 v1